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Non-governmental organizations

Letter dated 19 July 2004 from the Permanent Representative of the Kingdom of the Netherlands to the United Nations (on behalf of the European Union) addressed to the President of the Economic and Social Council

With reference to the letter dated 29 June 2004 from the Permanent Representative of Viet Nam addressed to the President of the Economic and Social Council and, in particular, to its annexes, which were circulated to all members of the Council (E/2004/91), the European Union believes that in order to allow a fully informed decision by the Council, it is necessary to point out the following issues:

(a) Under agenda item 12, the Council will consider the report of the Committee on Non-Governmental Organizations and decide on the draft decisions contained therein, including draft decision III on the suspension of the consultative status of the non-governmental organization called the Transnational Radical Party (TRP). According to the provisions contained in paragraph 56 of Council resolution 1996/31,

> "In cases where the Committee on Non-Governmental Organizations has decided to recommend that the general or special consultative status of a non-governmental organization or its listing on the Roster be suspended or withdrawn, the non-governmental organization concerned shall be given written reasons for that decision and shall have an opportunity to present its response for appropriate consideration by the Committee as expeditiously as possible."

Confirming one more time its full commitment to the strict observance of the Council's provisions, TRP submitted its final response to the Secretariat on 18 June 2004 (see attachment). In its final response, TRP, while rejecting "all the accusations concerning the alleged abuse of its relationship with the United Nations as well as all the additional allegations against Mr. Ksor, President of the MFI [Montagnard Foundation[, Inc.]] and a member of the TRP's General Council", addresses in detail all the allegations made against TRP, in particular those concerning the issues of terrorism, including the question of the affiliation of

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Mr. Ksor with the now defunct organization called Front unifié pour la lutte des races opprimées (FULRO), and lastly the one on separatism.

The European Union believes that, in view of the respect of the right of reply, which informs the basis for all our decisions, it is necessary to bring to the attention of all the members of the Council the elements contained in the final response of TRP, included as an attachment to the present letter, which, in our view, has not so far received the "appropriate consideration" laid down in paragraph 56 of resolution 1996/31.

In relation to this issue, the European Union wishes to bring to the attention of the Council that during the debate held last May in the Committee on Non-Governmental Organizations and pursuant to paragraph 50 of resolution 96/31, a member of the European Union submitted a request to suspend the debate to allocate more time for a more in-depth consideration of the matter we have before us today. The request was rejected by a vote. It is unfortunate that at this later stage, Viet Nam has decided to circulate additional information on TRP.

(b) With regard to considerations contained in the letter from the Permanent Representative of Viet Nam, the European Union wishes to call the attention of all the members of the Council to the fact that no organization should have its consultative status with the Council suspended merely because it draws the attention of the United Nations High Commissioner for Human Rights to alleged human rights violations, in particular to indigenous issues and religious freedom. In fact, paragraph 57 of resolution 96/31 establishes the criteria by which the consultative status may be suspended. None of these criteria has been met in the case of the Transnational Radical Party; in fact, draft decision III does not include any reference to the relevant provisions contained in paragraph 57.

The European Union also wishes to emphasize that since 2002, when the issue was brought to the attention of the Committee on Non-Governmental Organizations, TRP as always complied with the requests to submit its special responses in due time, fully participating in the process of the Committee, and was on all occasions very cooperative and open to dialogue. Moreover, fully aware of the responsibilities stemming from its affiliation with the United Nations system, TRP has always complied with the provisions of resolution 1996/31 and the principles and purposes of the Charter of the United Nations.

Having studied with great care the statements issued by TRP over the last years at the Commission and Subcommission on Human Rights, the European Union believes that on no occasion did TRP or Kok Ksor argue, directly or indirectly, to undermine the sovereignty or territorial integrity of Viet Nam. Deeply rooted in the principles and actions of TRP is the rejection of all forms of violence, including of course terrorism, against individuals or States.

(c) The European Union firmly believes that it is fully within the mandate of the Council to review the work of its functional commissions and subsidiary bodies and that on no occasion shall the exercise of this mandate be presented as "illegitimate". It is a basic rule of the "democracy" governing this honourable institution that decisions taken at the level of a subsidiary body shall be considered by its parent organ and, if it is so decided, modified.

Members of the Council, on the basis of detailed reports from the Committee on Non-Governmental Organizations, shall therefore be able to express in full

legitimacy their evaluation of recommendations contained in them, particularly when they concern the delicate issue of the suspension of the consultative status of a non-governmental organization. Under no circumstances shall their right to reconsider, and eventually reverse, a decision taken at the subordinate body level be presented as an "illegitimate attempt".

(d) The European Union has studied with great care the documents circulated in the annexes to the letter from the Permanent Representative of Viet Nam. For this reason, the European Union would like to point out that some of the new elements presented by Viet Nam have wrongfully been attributed to the Internet page of the Montagnard Foundation. In fact, they belong to the web site of another organization that deals with Viet Nam-related indigenous issues, called "Save the Montagnard People".

As a general observation, the European Union expresses its great concern for the decision to circulate, as Council documents, information whose authenticity has not been verified, in particular in connection with events that have not been thoroughly and independently investigated either by official independent observers or the United Nations.

The situation described by Mr. Ksor on behalf of TRP remains indeed a matter of national and international concern and has recently been at the centre of several statements issued by the Office of the United Nations High Commissioner for Human Rights and the Office of the United Nations High Commissioner for Refugees as well as by the Special Representative of the Secretary-General in Cambodia. Several respected international non-governmental organizations have also emphasized how the situation in this region continues to raise several concerns about the situation of the "Montagnards" vis-à-vis their indigenous prerogatives and freedom of religion or belief.

(e) For all these reasons, I would like to request that you circulate the present letter and its annexes to all members of the Council, together with a copy of the final response prepared by the Transnational Radical Party in accordance with the provisions contained in paragraph 56 of resolution 1996/31, which was forwarded to the Secretariat on 18 June 2004 (see enclosure and attachment).

On behalf of the European Union

(*Signed*) Dirk Jan **van den Berg**
Ambassador Extraordinary and Plenipotentiary
Permanent Representative

Enclosure

Transnational Radical Party

RE: RESPONSE TO THE RECOMMENDATION FOR SUSPENSION OF TRP CONSULTATIVE STATUS

Please find attached the final response prepared by the TRP to address the "written reasons" for the recommendation to suspend its consultative status for three years.

The TRP regrets the fact that none of its previous documents has been quoted or attached to those reasons. This, the TRP believes, might pose a problem for an informative decision to be taken by the Committee and the Council on the matter.

To this end, on behalf of the TRP, I formally request that our previous responses, contained in documents E/C.2/2003/3, E/C.2/2003/3/Add.1 and E/C.2/2003/3/Add.2, be circulated once again to the members of the Committee and quoted in the final report to the Council.

Marco Perduca
UN Representative

Attachment

Response by the Transnational Radical Party to the recommendation for suspension of its consultative status for three years adopted by the Committee on Non-Governmental Organizations on 21 May 2004 by a roll-call vote

Introduction

The Transnational Radical Party (TRP) is a membership-based Non-Governmental Organization (NGO) in "General" category consultative status with the Economic and Social Council (ECOSOC) of the United Nations. Despite its name, the TRP does not participate in any political election in any part of the world; the TRP symbol cannot be used by anybody to run for office, including its members.

Members include everyday citizens as well as elected officials, both from Parliaments and Governments, from some 20 countries. All members pay their dues on an annual basis. The amount is set for 1% of the GDP of the member's country of residence.

The TRP is a Gandhian non-violent organization. In its activities and campaigns, the TRP tries to reach out to different democratic constituencies, through non-violent means, involving its members in trans-national actions to call on national and international institutions to uphold their principles and affirm the international rule of law.

Since its affiliation with the UN in 1995, the TRP has participated in the works of a variety of UN bodies on issues pertaining to the promotion of civil and political rights; support for all bilateral and multilateral actions to promote human rights and democracy worldwide; support of the activities of the UN *ad hoc* Tribunals and for the establishment of a permanent International Criminal Court; support for the adoption of a universal moratorium on capital executions by the UNGA; support for reform of the UN Conventions on Drugs; support for the use of Internet Technologies the world over to foster civil liberties and democracy; and support for freedom of scientific research and for a civilian conversion of military expenses.

Over the last nine years, the TRP has sent delegations and circulated and/or delivered statements at the 20th Special Session of the UNGA on Drugs, the Commission and Sub-Commission on Human Rights, the Commission on Narcotic Drugs, the Commission on the Status of Women, the Human Rights Committee, the Committee on the Elimination of Racial Discrimination, the Committee on NGOs, the Durban World Conference against Racism, the Preparatory Committee for the UN Information Technology Summit and the Permanent Forum on Indigenous Issues, as well as other seminars and meetings convened by the UN in New York, Geneva and Vienna.

Throughout the 1990s, the TRP has strengthened its relationship with a variety of unrepresented peoples and individuals in order to help them in the internationalization of their issues and in trying to sensitize the United Nations system accordingly.

The TRP is currently engaged in a series of activities linked to the "Community of Democracies" initiative launched in 2000 to promote coordinated work of democratic countries, also within the UN system, in order to promote the realization of civil and political rights the world over.

The TRP operates a website at www.radicalparty.org, where its activities are publicized.

Background to this written response

Pursuant to paragraph 56 of Part VIII of ECOSOC Resolution 1996/31, on 27 May 2004, the TRP was invited to reply "as expeditiously as possible" to the "written reasons for the decision" taken by the Committee on Non-Governmental Organizations (Committee) on 21 May 2004 by a roll-call vote.

On 15 June 2004, not having received the text of the Report of the NGO Committee, as stated in a letter received on 27 May 2004 from the NGO Section, the TRP has decided to comply with the request to reply "as expeditiously as possible" to the Committee.

On 16 June 2004, the TRP received the written reasons for the recommendation to the ECOSOC to suspend its consultative status for 3 years, with a letter that was bringing to the attention of the TRP representative to the UN the fact that the Committee would meet on 23 June.

The TRP regrets that those written reasons only summarize the four passages at the Committee without including any of the explanations provided by the TRP to the Committee in its Special Report and Supplementary Report, and further clarification submitted in 2002 and 2003.

The TRP believes that in order for the Council to take an thoroughly informed action on the recommendation, which was adopted by a roll-call vote, those texts should be taken into due consideration by the members of the Committee and the Council itself. They can be found in documents E/C.2/2003/3, E/C.2/2003/3/Add.1 and E/C.2/2003/3/Add.2.

The document circulated by Viet Nam on 14 and 21 May 2004 contains a number of allegations already presented in other documents submitted to the Committee in 2002 and 2003 as well as some new elements. As in previous documents, the object of the complaint is Mr. Kok Ksor and a group called the *Montagnard Foundation Inc.* (MFI), a non-profit organization incorporated in South Carolina, USA.

Viet Nam believes that Mr. Kok Ksor and the MFI are engaged in terrorist activities to establish an independent "Degar State" and, therefore, that the TRP has abused its consultative status in accrediting Mr. Ksor to the UN. Throughout 2002 and 2003, the TRP has submitted three responses to the Committee in which it has addressed, point by point, all the allegations made by Viet Nam.

The TRP rejects all the accusations concerning the alleged abuse of its relationship with the UN as well as all the additional allegations against Mr. Ksor, President of the MFI and a member of the TRP's General Council.

In order not to proceed with its request to sanction the TRP, the first complaint lodged in 2002 by Viet Nam invited the TRP to apologize for its accreditation of Mr. Ksor, considering it an abuse of its consultative status, and not to accredit Mr. Ksor to the UN. The TRP did not apologize and continued to accredit Mr. Ksor (who in his capacity of representative of the MFI has been participating in UN meetings on indigenous issues without problems since 1993), as it firmly believes that it did not violate any UN rule.

Such an interpretation of the events at the center of the Vietnamese complaint was also clearly offered by H.E. Ambassador Krzysztof Jakubosky of Poland on 23 April 2003, in an official communication to H.E. Mr. Nguyen Quy Bink, Permanent Representative of the Socialist Republic of Viet Nam. In his letter, the Polish Ambassador, who was the Chair of the 58th session of the UN Commission on Human Rights, writes:

"Dear Ambassador,

"Thank you for your letter dated 12 April 2002 referring to the presence of a representative of the Montagnard Foundation Inc. at the 58th session of the Commission on Human Rights.

"At my request, the Secretariat of the Commission proceeds to a **meticulous implementation of the accreditation procedure** of all observer participants. In this particular instance, it was brought to my attention that **the representative of the Montagnard Foundation was duly accredited by the Transnational Radical Party**, an NGO in consultative status with ECOSOC. (*emphasis added*)

"Additionally, the parallel event held on 15 April from 1 to 3 pm in room XXII, which was referred to in your correspondence, was also organized in conformity with paragraph 53 of document E/CN.4/2002/16.

"I am pleased to inform you that your correspondence, as requested, was circulated as an official document of the present session of the Commission with reference number E/CN.4/2002/176."

The TRP believes that the letter of the Polish Ambassador should be taken into due consideration by the Committee and the Council in their final deliberations concerning the case of the TRP as it clears the TRP of any alleged wrongdoings.

To continue its collaboration with the Committee, the TRP will try address the main allegations presented by the Permanent Representative of the Socialist Republic of Viet Nam to the UN on 14 and 21 May 2004.

On the issue of terrorism

As stated by several members of the Committee, allegations concerning terrorism are always serious and need to be taken under consideration very carefully. As such, they should be brought to the attention of other UN bodies that are better equipped to deal with the issue.

Aware that there is not a consolidated definition of what is, or what can, constitute terrorism, the TRP believes that one of the constituent elements of terrorism is violence carried out by surprise. The activities of Mr. Ksor and the MFI, by their own admission, are not only of a peaceful and non-violent nature, but are widely publicized beforehand to draw the attention of the general public to their issues of concern, namely indigenous rights and religious freedom.

The TRP wishes also to bring to the attention of the Committee that the MFI is not present in any nationally or internationally recognized list of terrorist organizations. This fact has also been presented by several delegations during the deliberations in 2003 and 2004.

On the issue of the "Degar State"

The documents produced by Viet Nam address the issue of separatism, quoting from a passage that is taken from the MFI website,[1] which presents the platform of the now dissolved organization *Front Unifié pour la Liberation des Races Opprimées* (FULRO).

The paragraph reads as follows: "The Degar people's sovereignty over the Central Highlands must be restored, and the independence of the Degar people must be guaranteed by the United Nations". While Viet Nam considers this to be evidence of current MFI activities, the passage should be taken in context, namely that it belongs to the past history of FULRO, not the present activities of the MFI. In other sections of the MFI website, clarification of the "mandate" given to Mr. Ksor is clearly provided (this issue is addressed in another section of this response).

On the affiliation with FULRO

Some of the new information provided by Viet Nam is taken from a section of MFI's website that is entitled "About Degar", which concerns the history of the indigenous hill tribes of Viet Nam's Central Highlands. In the first line of the main page, it is clearly stated that, "We call ourselves Degar, a name coined by **those who fought in the forest for independence**"; it must be noted that all verbs are in the past tense.

In the sub-section "Modern History", a "Synopsis of Modern History" is provided starting from "pre-1800".

The Vietnamese document highlights three entries concerning events that took place in 1986 and 1992, incorporating also quotes taken from other sections of the MFI's website.

The first entry speaks of "200 FULRO fighters" who were resettled in the U.S. The second, among other things, states that 400 other "fighters and their families **were forced to end their 17-year struggle. They requested political asylum, handed over their weapons,** and accepted resettlement in North Carolina". The quote ends saying that "Mr. Kok Ksor was sent to the U.S. by the founder, and leader, of the FULRO, General Y-Bham Enoul, **with a mission of gaining world assistance for the Degar people**. He was directed and empowered by the General to **explore every peaceful avenue for the reinstatement of the legitimate right of the Degar people under international law**".

All three paragraphs are quotes of past activities that happened prior to the affiliation of the TRP with ECOSOC. While it is clearly stated that there has been a

[1] http://www.montagnard-foundation.org/homepage.html.

connection between Mr. Ksor and the founder and leader of the FULRO, a connection that dates back almost three decades now, the other passages stress the deposition of weapons and the peaceful quest for indigenous rights under international law. These are all activities that cannot be considered terrorist, nor in violation of the UN and its founding documents.

On the April 2004 demonstrations

Viet Nam considers that the demonstrations organized on 10 April 2004, as well as those that occurred in February 2001, were of a violent nature. It has been widely reported by international news agencies that participants did not use violence either in 2001 or in 2004. Moreover, several international media outlets and respectable international NGOs, such as Human Rights Watch and Amnesty International, have documented the excessive response of the Vietnamese Police and Army against demonstrators as well as the fact that this response caused dozens of casualties and the displacement of hundreds of people in the jungle along the border with the Kingdom of Cambodia.

The 2001 and 2004 demonstrations were organized and carried out peacefully by the Montagnards in the Central Highlands of Viet Nam to raise national and international public awareness on the tragic situation of the indigenous hill tribes of Viet Nam with particular focus on land rights and religious freedom. Mr. Ksor has always lent his support to internationalize those events by reaching out to international organizations and media outlets that do not have access to the region.

As regards the events of Easter 2004, the TRP was informed on 8 April of the decision taken by groups in Viet Nam's Central Highlands to organize a series of demonstrations. The TRP immediately joined Mr. Ksor in alerting diplomats and the press in the region through the MFI website, announcing what would have happened on Saturday 10 May 2004. In fact, on 9 April, a press release was posted in the section "Press Releases" of the MFI website (please see Annex 1). At the end of that press release, the TRP and the MFI call on a variety of national and international governmental actors to urge Viet Nam to respond to the UN Committee on Human Rights and open up the Central Highlands for an international and independent assessment of the situation, with particular focus on religious freedom.

Right after the April 2004 demonstrations, both the acting UN High Commissioner for Human Rights, Mr. Bertrand Ramcharan, and the UN High Commissioner for Refugees, Mr. Ruud Lubbers, and later in May the UN Secretary-General Special Representative for human rights in Cambodia, expressed their concern about the human rights situation of the Montagnard people.

On the other annexes to the Vietnamese document

Other annexes to the Vietnamese document are pages taken from the website of groups other than the MFI. As such, these should be taken into consideration only as the "opinions" of those organizations rather than as "facts".

The TRP believes that its previous special reports submitted to the Committee should be circulated as an annex to this final response.

Conclusion

In 2002, 2003 and 2004, the TRP has addressed Viet Nam-related issues through Mr. Ksor and other TRP representatives to the UN without any complaints from the country concerned. Moreover, Mr. Ksor has been invited to participate, on behalf of the MFI, in the 2002, 2003 and 2004 sessions of the Permanent Forum on Indigenous Issues, where he has also delivered statements without incurring any form of procedural or substantive problems from the Secretariat of the Forum or from the delegation of Viet Nam.

For two years, the TRP has actively participated in the work of the Committee, respectfully providing all the documentation and information requested by the Committee itself. Furthermore, over the last two years, and thanks to the contribution made by Mr. Ksor on behalf of the TRP, the United Nations system, but also the European Union system and the institutions of the United States, have been informed about the overall situation of the Montagnards living in Viet Nam's Central Highlands. Their reactions to the information provided have systematically been of a very concerned nature and, on several occasions, public and official statements and/or requests have been released addressing some of the issues that are the object of TRP's contribution to the work of the UN (please see Annex 2).

Finally, the TRP is an organization dedicated to the Gandhian principles of non-violence. This is clear even in the symbol of the TRP, which bears a portrait of the Mahatma Gandhi. The TRP does not condone violence from any quarter, whether governmental or non-governmental. The TRP has consistently campaigned for values of peace, human rights, self-government and international justice. It would be unthinkable for the TRP to knowingly accredit a terrorist or the representative of a terrorist organization to represent it.

ANNEX I

Press Release April 09

MONTAGNARD FOUNDATION, INC.
The True Voice of Degar People

URGENT APPEAL FOR THE IMMEDIATE INTERVENTION OF DEMOCRATIC COUNTRIES

Welcome
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PRESS RELEASE | BREAKING NEWS | MFI REPORT | SPECIAL REPORT | OUR OPINION | COMMENTA

HOMEPAGE | BAJARAKA | ABOUT DEGAR | ABOUT US | ASPIRATION | CONTACT US

09 April 2004

June 2004

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BRUTAL REPRESSION AGAINST THE CHRISTIAN MONTAGNARDS IN VIETNAM URGENT APPEAL FOR THE IMMEDIATE INTERVENTION OF DEMOCRATIC COUNTRIES

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ON SATURDAY 10 APRIL 2004 MORE THAN 150,000 MONTAGNARDS WILL BEGIN A NONVIOLENT DEMONSTRATION OF PUBLIC PRAYER IN THE CENTRAL HIGHLANDS OF VIETNAM, AGAINST THE VIETNAMESE GOVERNMENT'S DENIAL OF THEIR FREEDOM TO WORSHIP CHRIST. THE MONTAGNARDS CALL ON THOSE COUNTRIES THAT RECOGNIZE FREEDOM OF RELIGION TO REQUEST ACCESS TO THE CENTRAL HIGHLANDS AND TO MONITOR THE SITUATION, ALSO WITH SATELLITES, TO PROTECT THEIR FUNDAMENTAL RIGHTS.

WITHOUT THE DIRECT INTERVENTION OF LAW ABIDING STATES, THE UN, THE EUROPEAN COMMISSION - THE REPRESSION AGAINST THE MONTAGNARDS WILL BE CRUEL AND BLOODY

THE UN SPECIAL RAPPORTEURS ON EXTRAJUDICIAL EXECUTIONS AND TORTURE, AND THE SPECIAL REPRESENTATIVE FOR HUMAN RIGHTS DEFENDERS HAVE DENOUNCED AT THE UN COMMISSION ON HUMAN RIGHTS THE KILLINGS OF MONTAGNARDS BY THE VIETNAMESE MILITARY

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MONTAGNARD FOUNDATION, INC.

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Or contact Spokesperson/advisor: Scott Johnson scottj@mail2me.com.au

BRUTAL REPRESSION AGAINST THE CHRISTIAN MONTAGNARDS IN VIETNAM
URGENT APPEAL FOR THE IMMEDIATE INTERVENTION OF DEMOCRATIC COUNTRIES

ON SATURDAY 10 APRIL 2004 MORE THAN 150,000 MONTAGNARDS WILL BEGIN A NONVIOLENT DEMONSTRATION OF PUBLIC PRAYER IN THE CENTRAL HIGHLANDS OF VIETNAM, AGAINST THE VIETNAMESE GOVERNMENT'S DENIAL OF THEIR FREEDOM TO WORSHIP CHRIST. THE MONTAGNARDS CALL ON THOSE COUNTRIES THAT RECOGNIZE FREEDOM OF RELIGION TO REQUEST ACCESS TO THE CENTRAL HIGHLANDS AND TO MONITOR THE SITUATION, ALSO WITH SATELLITES, TO PROTECT THEIR FUNDAMENTAL RIGHTS.

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These hours leading to the Easter celebration in the Central Highlands of Vietnam - there is taking place a brutal repression of the Christian Montagnard peoples. **Starting tomorrow more than 150,000 Montagnards will begin a collective public prayer all over the Central Highlands of Vietnam to call on the international community to establish a monitoring presence in the Central Highlands - AS ALREADY REQUESTED BY THE UN COMMITTE ON HUMAN RIGHTS IN 2002, where for more than three years the repression against the Montagnard people has been without mercy and with no control, with thousands of beatings and torture, hundreds of disappearances in the jungle and arrests, extrajudicial executions, rapes and occupation of land which represents the only means of subsistence for the Montagnard populations.**

It has been documented by the US Commission on International Religious freedom, by the US State Department and the European Parliament that the Vietnamese Government does not allow the free exercise of religious freedom and religious activities of the indigenous Montagnard people have been especially harsh. **With the beginning of their prayers the Montagnard will ask the immediate intervention in the region of the international community to protect them from the human, civil and cultural repression that the Vietnamese regime has been carrying out since 1975.**

IN PARTICULAR THE TRANSNATIONAL RADICAL PARTY AND THE MONTAGNARD FOUNDATION APPEAL TO THE UN SECRETARY GENERAL, TO THE HIGH COMMISSIONER FOR HUMAN RIGHTS, TO THE UN COMMISSIONER FOR REFUGEES, TO THE PRESIDENT OF THE UNITED STATES, THE US STATE DEPARTMENT AND THE DEPARTMENT OF DEFENCE, TO THE PRESIDENT OF THE EUROPEAN COMMISSION AND TO THE EU COMMISSIONER FOR EXTERNAL RELATIONS, TO THE HEAD OF GOVERNMENTS AND FORCIGN MINISTERS OF THE EU COUNTRIES TO ASK THE VIETNAMESE GOVERMENT TO RESPECT THE CONCLUDING OBSERVATIONS OF THE UN HUMAN RIGHTS COMMITTEE OF JULY 2002 ALLOWING THE PERMANENT AND PERVASIVE ESTABLISHMENT IN THE REGION OF INTERNATIONAL AND INDEPENDENT OFFICES TO MONITOR THE COMPLIANCE OF HUMAN RIGHTS

During the current session of the UN Commission on Human Rights, the Special Rapporteurs on Extrajudicial Executions, on Torture and the Special Representative for human rights defenders have denounced to the Commission the existence of reports related to the killing of some Montagnards also for their support to the Montagnard Foundation and the Transnational Radical Party, in the context of the growing campaign of repression put in place by the Vietnamese Government against the diffusion of the Christian religion and of the peaceful movement to obtain the restitution of lands.

Currently the Vietnamese government has maintained tight security measures over the central highlands trying to prevent word of abuses from reaching the international media and human rights groups. Reports of executions, shootings and rapes have leaked out and while we have received numerous reports of such abuses, we are only able to report on those we have confirmed. The US State Department's recent Religious Freedom Report of 18 December 2003 also stated, *"There were unverifiable reports that between one and seven ethnic minority Protestants died in police custody or died as result of beatings during the period covered by this report."*

The Montagnard Foundation has confirmed Montagnard Christians being executed by lethal injection and literally hundreds of incidents of beatings/torture of Montagnards by Vietnamese authorities. It is highly likely that many more Montagnards have been killed through torture or outright, by summary executions though these reports of executions taking place in the remote jungle areas cannot be confirmed. These reports may explain the numerous reports of disappearances (of Montagnards) and is likely another reason the Vietnamese government refuses international monitors from having access to the region. The US State Department stated in 2004, *"There were credible reports that some members of ethnic minorities in the Central Highlands and Northwest Highlands who were either arrested or detained did not return to their families.*[1]

Human Rights Watch has however, confirmed some recent killings noting the quote below from its 21 April 2003 report when soldiers fired on fleeing refugees.

> *"On March 26, 2003 security police and soldiers shot at a group of Jarai men who had gone into hiding in the Dak Doa district, Gia Lai. Five people escaped, but two men were wounded and taken to the commune center, where one of the men, Suoc later died. When his body was returned to his family, his skull had been severely crushed, apparently from additional beatings by security officers at the commune center. The whereabouts of the other man taken into custody, Hwi (Huy) are unknown. A third Jarai man named Ly was arrested and beaten on March 27, but allowed to return to his village."*[2] (See also below at 26 March 2003).

We have however, confirmed the reports below of killings, shootings, rapes and executions received direct from the Central Highlands. It is noted that in some cases the names and rank of the police or military officers that perpetrated these crimes are identified.

13 DECEMBER 2003 - THROAT CUT - ARRESTED AND EXECUTED BY "MAJOR TUAN": At 7:00 pm in the evening, a group of paramilitary police officers from Dak Dao District surrounded the village of Plei O Dot in the Commune of Ia Bang, Dak Dao District, Gia Lai Province and arrested 2 villagers named "Nih" (41 years old) and "So" (44 years old). They both were Christians and had registered themselves as supporters of MFI and the Transnational Radical Party (TRP), an NGO in consultative status with ECOSOC, which the Vietnamese Government is trying to expel from the UN for its support to the Montagnard people and to the

1 Vietnam Supra note 3 at section 1. b

2 Human Rights Watch (briefing paper) *New Documents Reveal Escalating Repression*, April 21, 2003.

Montagnard Foundation. "Nih" was number 338 and "So" was number 373 on this list. Both of them were taken to the prison in the district of Dak Doa and tortured by beatings, kicking and electric shock. "Nih" refused to answer questions or renounce Christ and **Major Tuan from Dak Doa police** took a knife and stabbed him in his chest and then cut his throat.

The recorded data of these two peoples as supporters of MFI and the TRP are available for national and international authorities willing to investigate the case. On December 15, 2003, the police took the body of Nih to his family at Plei O Dot but refused to allow the family to perform the funeral and stated they wanted the villagers to see what happens to those who the government does not like. "Nih" was a Christian and had been helping to feed refugees who were hiding in the area. We have since been unable to find out if the dead body has been properly buried or not.

16 OCTOBER 2003 – SHOT FEARED DEAD: at around 12:00 noon, the Cong An (security police) and soldiers went into the village of Buon Cuor Knia, district of Buon Don, province of Daklak, and opened fire at our Christian brother, Y-Hoang Buon Krong, with an automatic AK 47 rifle. He was wounded with four bullets and was hospitalized at Buonmathuot Hospital. It is unknown whether he survived the shooting.

10 OCTOBER 2003 – SHOT FEARED DEAD: at around 2 pm, a group of 12 policemen from the district of Krong Ana, province of Daklak, opened fire at Y-Pho Eban in his house and in front of his wife and children with automatic AK 47 rifle. His wife and children cried out to neighbors for help but the police tied his pregnant wife to a house pole, beat her and stuffed a cloth in her mouth. Y-Phon Eban was wounded with three bullets in his abdomen and he was hospitalized at Buonmathuot Hospital. Before the police shot him the Vietnamese government had sent 2 battalions of soldiers (excluding the Cong An police) to surround his village (Buon Cuoi village, district of Krong Ana, province of Daklak). It is unknown if he survived the shooting.

18 AUGUST 2003 – WOMAN RAPED BY POLICE OFFICER NAMED MAJOR NGUYEN VINH CHINH: Major Nguyen Vinh Chinh, a police officer, with 100 Vietnamese soldiers from Daklak province went to the village of Buon Yang Reh, district Krong Bong, province of Daklak to harass Christians in this area. They forced their way into H'Duen Buondap's house and searched her house thoroughly. They confiscated the Bibles and hymn books found there and stole 150,000 VND. This was not enough and Major Nguyen Vinh Chinh forced H'Duen Buondap in her room and raped her while his soldiers were with him in the house and also were the family members of H'Duen. After that the officers searched each and every house in the village and beat up villagers who resisted their cruel and inhuman actions.

26 MARCH 2003 SHOT AND BEATEN TO DEATH – CONFIRMED BY HUMAN RIGHTS WATCH: approximately 50 Vietnamese soldiers and security forces conducted a sweeping operation in the area of Dir Tok, Ia Pet commune, Dak Doa district, Gia Lai province. At 7:00 am just West of Plei Bia Bre about 700 meters they encountered a group of Degar people who were walking to the Ia Tor river for bathing. The soldiers opened fire at these unarmed civilian Degar people and wounded two of them but the other 7 ran away. The soldiers took the wounded to the commune office. One of the two wounded died and they took his body to his family at the hamlet of Plei Nglom Thung for burial. The family of the dead examined the body and they found out that his skull had been crushed. ***They concluded he died not because of the bullet wound but because of being severely beaten after he was wounded.*** The name of the dead Montagnard person is ***Suoc*** who was born in 1962, from the hamlet of Plei Nglom Thung, Ia Pet commune, Dak Doa district, Gia Lai province. The name of the other Degar Montagnard who was wounded and captured is R'com Hui who was born in 1962, from the hamlet of Plei Khun, Tra Ba commune, Pleiku city, Gia Lai province. His whereabouts is unknown. Human Rights Watch confirmed this killing and stated in its 21 April 2003 report that, *"When his body was returned to his family, his skull had been severely crushed, apparently from additional beatings by security officers at the commune center."*[3]

18 MARCH 2003 – WOMAN RAPED BY POLCE OFFICER NAMED "NGUYEN VAN LINH": Vietnamese government security officer named Nguyen Van Linh in search of Montagnard Christians and land rights activists entered the house of a Montagnard woman and stationed himself there. While he was waiting for her husband to return home so that he could arrest him, Nguyen Van Linh raped the woman named "H'Nui" with a gun pointed to her head. H'Nui was born in 1962, from the village of Buon Krang, district of Krong Ana, province of Daklak. She has suffered extreme physical and mental trauma from this ordeal.

3 Human Rights Watch, supra note 9.

FEBRUARY 2003 – BODIES OF 3 MONTAGNARDS MUTILATED - EYES CUT OUT AFTER EXECUTION: At the 'secret' military camp at Buon Cu Mblim, Krong Ana district, Dak Lac province Vietnamese soldiers executed 3 Montagnards whose names are unknown on 27 February 2003. The soldiers summoned approximately 100 villagers to look at them telling the villagers "this is how you are going to end up if you follow Kok Ksor and the Montagnard Foundation". The soldiers also told the villages not to believe in Christ as it was against the teachings of Ho Chi Minh. The villagers stated that the eyes of the 3 victims had been cut out. The soldiers then buried the dead bodies outside the camp with their feet protruding from the ground warning the villagers not to approach them.

31 JANUARY 2003 – TORTURED AND EXECUTED: Vietnamese authorities tortured and executed Y-Su Nie (pictured here) a Degar Montagnard Christian after injecting him with lethal chemicals on 31 January 2003. He was from Buon Mbhao village, Mdrak district, Dak Lak province and had been in prison since 15 November 2002 when soldiers arrested him for being a Christian. He was taken to Buonmathuot prison and tortured by beatings and electric shock. Eventually he was routinely taken out of prison to publicly denounce Kok Ksor and Christianity in front of Montagnard villagers. On January 30, 2003 they handcuffed him and told him he "would soon die, but because the Vietnamese government is merciful we will allow you to see your family one last time". They then injected him with a chemical and released him. When Y-Su Nie saw his family he cried and told them "the government let me come to see you for only a few moments because the police had injected poison in my body". The next day on January 31, 2003, Y-Su Nie died at 10:00 PM. He was buried on 2 February 2003

29 OCTOBER 2002 – THREE EXECUTED BY LETHAL INJECTION: Vietnamese Government Security Forces executed by lethal injection in their prison cells 3 Montagnard Christians named: Y-Suon Mlo, from Buon Kuang village, Y-Het Nie Kdam, from Buon Ea Tieo and Y-Wan Ayun, Buon Gram village all from Daklak province. These 3 Montagnards were executed for taking part in the peaceful demonstrations of February 2001. They were injected by prison authorities with an unknown drug and died in convulsing spasms within minutes on 29 October 2002.

14 FEBRUARY 2002 –WOMAN RAPED BY SECURITY OFFICER NAMED "TUAN": Montagnard woman by the name of H'Cek was raped in front of her children by a Vietnamese security official by the name of Tuan in the hamlet of Plei Al Hmoi, in the district of Dak Doa, in the province of Gia Lai. Her husband, Bler, participated in the peaceful demonstrations in February of 2001 and was involved with the Christmas celebration in December of 2001. For these reasons, the Vietnamese government sent security officials to arrest him. Unable to arrest Bler who had gone into hiding the security official named Tuan then raped his wife H'Cek in front of her children.

MARCH 2001 – SHOT AND KILLED AT CHURCH SERVICE: a Montagnard Christian named Rmah Blim was shot and killed by police while Vietnamese authorities were burning down a Christian church at Plei Lao village. (See also photo on cover of this report). Authorities burned down the village church and the BBC ran a story *"Fury at Vietnam Church Destruction"* on 28 March 2001. The US State Department confirmed his killing and reported 1- 5 Montagnard Christians killed. There are unconfirmed reports other Montagnards were also killed and several wounded.[4]

19 OCTOBER 2000 – ARRESTED AND NEVER HEARD FROM AGAIN: Four years ago the Vietnamese government arrested Y Hong Nie a Montagnard or Degar hill tribesman from Buon Cu Po hamlet in the village of Cu Ewi in Dak Lak province, Central Highlands. His crime was that he refused to give his ancestral lands over to the communist authorities. The communist government's police had previously threatened Y-Hong Nie and said they would kill him. This time they came and carried out their threats. Y-Hong Nie's wife stood by helplessly as her husband was dragged from their longhouse. He has never been again by his family and Y-Hong Nie's farm is now under the control of the Vietnamese government

These are just some of the thousands of examples of persecution our people have suffered. Unless urgent action is taken by the international community the Montagnards will suffer a human rights catastrophe.

4 Vietnam: supra note 4.

"Our people cannot continue suffering this way as the Vietnamese government continues to arrest, electric shock torture, and kill our peaceful hill tribe people for being Christian or for trying to save our ancestral lands from being confiscated"

Kok Ksor, Montagnard Foundation Easter 2004

ANNEX II

HUMAN RIGHTS SITUATION IN THE CENTRAL HIGHLANDS OF VIETNAM

In his 2003 Report, **Mr. Peter Leuprecht, U.N. Secretary-General Kofi Annan's envoy for human rights in Cambodia** stated 49." *There is information that people assisting Montagnards have been harassed by local authorities, and reports of forcible returns continue to circulate. This brings into question Cambodia's will to comply with its international obligations under the 1951 Convention relating to the Status of Refugees. As the Special Representative has stated repeatedly, Cambodia must comply with its international obligations under the 1951 Convention and its 1967 Protocol, in particular the core principle of non-refoulement. The forcible deportation of refugees and asylum-seekers to countries where they risk torture and ill-treatment also contravenes Cambodia's obligations under article 3 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment."*

On December 5, 2003, **Mr. Peter Leuprecht, U.N. Secretary-General Kofi Annan's envoy for human rights in Cambodia**, stated that he had a *"credible report" about people who have been sent back to Vietnam "in a clear violation of the fundamental principle of the ... refugee convention to which Cambodia is a party."* and that he had *"reasons to believe that there are people in the highlands on the other side of the border who have a justified fear of persecution"* by the Vietnamese government.

On December 18, 2003, the **International Religious Freedom Report released by the US State Department** stated: *"Foreign diplomats visited the Central and Northwest Highlands several times during the period covered by this report, although the provinces continued to provide "escorts" and plainclothes "security." The Government continued to restrict or supervise closely access to these provinces by diplomats, nongovernmental organizations (NGOs), journalists, and other foreigners, making it difficult to verify conditions in those areas"*

On January 30, 2004, in a reply to a parliamentary question tabled by the Hon. Marco Pannella, MEP **European Commissioner for External Relations Christ Patten**, stated: *"As regards the situation in the Central Highlands, the Union has constantly called on the Government of Vietnam to increase access to the region for Union missions, as well as for the United Nations High Commissioner for Refugees (UNHCR) and other UN bodies and representatives, in order to allow a full and independent first-hand assessment of the situation on the ground. The Government of Vietnam has allowed the Union to undertake - accompanied - Troika missions to the region, the latest in December 2003. However, access remains controlled."*

On April 20, 2004, **the European Commission** carried out a demarche with the Vietnamese authorities:" *expressing concern about the demonstrations that took place in the Central Highlands during the Easter weekend and requesting detailed information on the events that took place. The EU called on the authorities to fully respect international human right standards in their longer-term response to the protests of Easter weekend and to allow peaceful demonstrations to take place. The EU also called on the authorities to re-establish a Tripartite agreement with UNHCR and Cambodia and allow UNHCR access to the Central Highlands to monitor the situation. The EU requested access to the area for diplomats, international press, other UN agencies and international NGOs. Furthermore, the EU requested the authorities to investigate the grievances of the ethnic minority people in the Central Highlands, to address them and to respect their freedom of religion."*

On April 22, 2004 **Human Rights Watch** stated *"The international community must act now and insist that Vietnam allow independent observers into the highlands to conduct a thorough and impartial investigation. We've received alarming reports that scores of protesters were wounded during the demonstrations, and that some protesters were beaten to death."*

Furthermore on April 28, 2004, **Amnesty International** stated: *"Whilst there is no doubt that overseas Montagnard groups have been linked to the public protests both in 2001 and April 2004, Amnesty International believes that to blame "outsiders" for the unrest avoids addressing fundamental and underlying problems including land rights' pressures from internal migration and differences of religion and culture."* and that *"People reported to have been unlawfully killed during the crackdown on demonstrators include those listed below [8 people]. Amnesty International fears that the final death toll is considerably higher and has further names of victims which are yet to be corroborated."*

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New York, 28 June-23 July 2004
Agenda item 7 (f)
Coordination, programme and other questions: ad hoc advisory groups on African countries emerging from conflict

Letter dated 16 July 2004 from the Permanent Representative of South Africa to the United Nations addressed to the President of the Economic and Social Council

I am pleased to transmit to you herewith the statement that I delivered on behalf of the Ad Hoc Advisory Group on Burundi to the Economic and Social Council on 15 July 2004 (see annex). The oral report to the Council was submitted pursuant to Council resolution 2004/2 of 3 May 2004. I would be grateful if the present document could be circulated as a document of the Council.

(*Signed*) Dumisani S. **Kumalo**
Ambassador
Permanent Representative of the Republic of South Africa

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Annex

Oral statement delivered by the Chairman of the Ad Hoc Advisory Group on Burundi to the Economic and Social Council on 15 July 2004

The Council will recall that the Ad Hoc Advisory Group on Burundi presented its last report to the Council (E/2004/11) at its organizational session for 2004. In its resolution 2004/2, adopted on 3 May 2004, the Council took note with appreciation of the report, welcomed the recommendations it contained and requested the Group to continue to follow closely the humanitarian situation and economic and social conditions, to examine the transition from relief to development in Burundi and the way in which the international community supports the process and to report, as appropriate, to the Council at its substantive session in July 2004.

Furthermore, I would also recall that the Council decided that the Group should contribute to the assessment of the ad hoc advisory groups, in general, and in particular the lessons learned during the application of its mandate and the implementation of its recommendations. I am pleased to report that the Group took an active part in the informal meeting of the Council held on 3 May to discuss the views on the assessment of the groups. It was particularly important that Mrs. Séraphine Wakana, Minister of Planning, Reconstruction and Development of Burundi, was present at the meeting.

Regarding Burundi, there have been two significant developments in the involvement of the international community in Burundi since the beginning of 2004. The first was the Forum of Development Partners of Burundi organized by the Governments of Burundi and Belgium together with the United Nations Development Programme (UNDP) held in Brussels in January 2004. The second important development was the decision by the Security Council on 21 May, to authorize the deployment of a peacekeeping operation, the United Nations Operation in Burundi (ONUB) during which the African Mission in Burundi was the only mission maintaining peace and security in Burundi. Both of these developments helped support efforts by the Burundians to restore lasting peace and bring about national reconciliation in their country.

In its last report to the Economic and Social Council, the Group stressed the importance of maintaining the momentum and consolidating the peace process. We believe that the establishment of a United Nations peacekeeping mission, which carries the mandate that includes the disarmament and demobilization portions of the national disarmament, demobilization and reintegration programme, is an important step towards maintaining stability in the country. The Group has had discussions on all these matters with Ms. Carolyn McAskie, the newly appointed Special Representative of the Secretary-General and head of the United Nations Operation in Burundi, before she left New York to assume her duties in Bujumbura. The Group agreed with Ms. McAskie that close interaction had to be maintained with the Ad Hoc Group so as to facilitate our support for development, peace and security in Burundi.

The Group has maintained continuous interaction with a wide range of stakeholders and representatives of the international donor community. Burundi continues to experience insufficient support for its dire humanitarian, economic and

social needs. At the Forum of Development Partners of Burundi, Brussels in January 2004, in which the Group took part, commitments were made for support to Burundi that totalled 1.032 billion United States dollars. A follow-up committee to the Brussels Forum was established and has met in monthly donor meetings held in Burundi since then. There is a great deal of interest about the situation in Burundi, as demonstrated by the fact that some representatives of donor countries who are based in Nairobi have travelled to Bujumbura to attend these monthly donor meetings.

The Group urges donors to disburse these promised funds as soon as possible, as requested by Minister Wakana of Burundi when she attended the high-level segment of the Council a few days ago. We also wish to repeat the relevance of an overall "road map", which would confirm the linkages between the various development programmes initiated, as indicated in the final communiqué of the Forum of Development Partners in Brussels.

There have also been positive developments in the areas of debt relief, support to the balance of payments and issues of governance. In the area of debt relief, the authorities of Burundi agreed, on 7 July 2004, on a plan with the African Development Bank to clear their outstanding arrears. This has led to increased involvement of the Bank, which has already sent an assessment mission to identify projects that should provide an incentive for other donors' involvement. Meanwhile, France and Italy have cancelled bilateral debts towards Burundi. Also, Belgium has provided 4 million euros for support to the balance of payments.

Regarding issues of governance, assistance has been granted by various partners, including Belgium, France, Germany, Italy, the European Union, the World Bank and UNDP. However, much of it relates to the organization of the elections, scheduled for October/November 2004. During her visit to New York, Minister Wakana briefed the Group on progress made on governance issues, including the drafting of the constitution, whose adoption is a prerequisite for holding the elections. The Group has stressed the need to accelerate and conclude this process as a matter of priority in order to respect the terms set in the Arusha Agreement and proceed with the elections as planned. There is also the need for the reform of the security sector, for which international support is being provided.

As far as the United Nations agencies are concerned, there have been some positive developments. The Executive Board of UNDP approved the country programme for Burundi for the period 2005-2007, which is based on the national priorities developed within the framework of the interim growth and poverty reduction strategy, the common country assessment (CCA) and the United Nations Development Assistance Framework (UNDAF). The latter was finalized by the agencies of the United Nations system earlier this year. The strategic objectives of this programme include the promotion of good governance to achieve the Millennium Development Goals, the fight against HIV/AIDS and the transition from emergency assistance to a development process, an area whose relevance was stressed by the Group in its report to the Council. The Executive Board of the United Nations Children's Fund (UNICEF) also adopted, at its annual session for 2004, its country programme for Burundi and approved a global indicative budget of US$ 37 million, including over US$ 10 million from core resources for the period 2005-2007. I also wish to report that the Government of Japan has decided to support Burundi through its Human Security Trust Fund by funding United Nations

agencies working to reduce vulnerability, particularly among displaced persons and refugees. The Japanese Government contribution is expected to reach US$ 5 million.

While the above-mentioned developments indicate an improvement in the situation of Burundi, it still falls much short of what is really needed in that country. The Group thus wishes to reiterate its call to the donor community to be more forthcoming in providing support to the country, including by contributing to the multilateral debt trust fund established by the World Bank to help the country clear its arrears.

Burundi needs massive support from the international community. While the establishment of ONUB is a major development, the people of Burundi need tangible support and improved living conditions in order to believe in peace and engage in the rehabilitation of their communities. The situation on the ground remains precarious. During the period under review, 52,000 refugees returned to Burundi, most of them facilitated by the Office of the United Nations High Commissioner for Refugees (UNHCR).

As stated in its report to the Council six months ago, the Group considers that Burundi is at a crossroad and that the efforts made by the Government and the people must be matched by strong international support, in the framework of a true partnership. This position remains valid, and the Group feels that further work is necessary in order to create real opportunities for the people of Burundi and to promote a comprehensive approach to peace and development in favour of this country.

There is no doubt that the focus that the Ad Hoc Advisory Group has been able to place on Burundi in the past few months has produced results of which we are proud. However, the road to Burundi's full recovery and reconstruction is long and we have barely taken the first steps. In this regard, it will be useful for the Ad Hoc Advisory Group to continue its activities. The Group also believes that the Economic and Social Council should encourage the donor community that participated in the Brussels Forum to translate their commitments into real resource flows.